

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLYDE WYLIE, TRACY PEARSON and  
JAMES BUTCHER, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

FOSS MARITIME COMPANY, a Washington  
corporation and DOES 1 to 25 inclusive,

Defendants.

No. C 06-07228 MHP

**ORDER****Re: Request for Supplemental Briefing on  
Defendant's Motion for Summary Judgment**

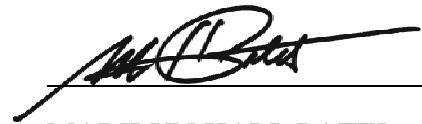
On April 14, 2008, defendant's motion for summary judgment came before the court and the parties presented oral argument. At the hearing, the parties represented to the court that they were unaware of any cases directly on point regarding the issue of whether federal labor law preempts application of California wage and hour laws to the maritime employees in this case who are covered by collective bargaining agreements. The court agrees that federal labor law preemption was not addressed in Pacific Merchant Shipping Association v. Aubry, 918 F.2d 1409 (9th Cir. 1990) because the maritime employees in that case were non-union employees working pursuant to individually-negotiated agreements.

Although there appears to be no cases directly on point, the court has identified several cases which may be relevant to the facts of this case, but which were not adequately discussed by the parties. These include McCollum v. Roberts, 17 F.3d 1219 (9th Cir. 1994); Viceroy Gold Corp. v. Aubry, 75 F.3d 482 (9th Cir. 1996); and Valles v. Ivy Hill Corp., 410 F.3d 1071 (9th Cir. 2005).

1 Accordingly, the court requests supplemental briefing on the issue of whether federal labor  
2 law preempts California regulation of overtime and meal and rest breaks. In briefing this issue, the  
3 parties shall discuss the applicability of the three cases cited above, and should discuss any other  
4 cases the parties consider relevant. Briefing by both parties shall be simultaneous. Each party shall  
5 have twenty days from the date of this order to submit their respective briefs which are not to exceed  
6 twenty-five pages. No oppositions or replies shall be filed. Upon submission of the supplemental  
7 briefing, the matter shall be deemed submitted and the court shall issue an order.

8  
9 IT IS SO ORDERED.

10  
11 Dated: 5/6/2008



MARILYN HALL PATEL  
United States District Court Judge  
Northern District of California